

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD S. FREEMAN and SHAWN M.
FREEMAN, husband and wife,

Plaintiffs,

vs.

Nationstar MORTGAGE, L.L.C.,
A Michigan limited liability corporation,

Defendant.

Civil Action No. 2:10-cv-11784

Honorable

Magistrate Judge

Patrick J. Politano (P56163)
Attorney for Plaintiffs
361 S. Water St., P.O. Box 117
Marine City, Michigan 48039
(810) 765-8804

Steven W. King (P56456)
Christyn M. Scott (P67485)
DYKEMA GOSSETT PLLC
Attorneys for Defendant
39577 Woodward Ave., Suite 300
Bloomfield Hills, MI 48304-5086
(248) 203-0746 / Fax: (248) 203-0763

NOTICE OF REMOVAL OF CIVIL ACTION TO FEDERAL COURT

TO: Clerk of the Court
Patrick J. Politano, Esq.

1. Defendant, Nationstar Mortgage, L.L.C., ("Nationstar"), by and through its attorneys, Dykema Gossett PLLC, hereby removes this action from the Oakland County Circuit Court to the United States District Court for the Eastern District of Michigan, Southern Division, states as follows:

2. On March 26, 2010, this action was commenced against Nationstar in Oakland County Circuit Court.

3. On April 5, 2010, Plaintiffs served Nationstar's registered agent via certified mail

with the Summons and the Complaint. Copies of the Summons and the Complaint are attached hereto as Exhibit A.

4. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days of the first date upon which Nationstar received service of and notice of the pleadings setting forth the claim for relief upon which this removal is based.

5. This case is a civil action of which this Court has original diversity jurisdiction pursuant to 28 U.S.C. § 1332, because, as set forth more fully below, the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest, costs and attorney fees, and this action is between citizens of different states.

6. Plaintiffs and Nationstar are citizens of different states as described below.

- A. In Paragraph 1 of their Complaint, Plaintiffs admit that they are Michigan residents living in Oakland County, Michigan.
- B. At the time this action was commenced, and at all times since, including at the time this Notice of Removal is filed, Nationstar was and is a Delaware limited liability company with its principal place of business in Texas. Nationstar is not now and never has been a citizen of the State of Michigan, where such action was brought, within meaning of 28 U.S.C. § 1332(c).
- C. Complete diversity exists; Plaintiffs are citizens of Michigan and Nationstar is a citizen of Delaware and Texas.

7. Pursuant to L.R. 81.1(a) and (b) and 28 U.S.C. § 1332(a), the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest, costs and attorneys fees. Nationstar submits the following facts and reasons in support of this allegation:

- A. Consistent with state court practice, Plaintiffs' Complaint does not specify the sum sought as damages.
- B. In the Complaint, Plaintiffs allege fraud (two separate counts), request that this court quiet title in their name, and request declaratory relief in

connection with a refinance transaction of real property located at 2440 Eastern Avenue, Rochester Hills, Michigan (the "Property").

- C. Although, as noted above, the Complaint does not plead a specific amount in controversy in excess of the jurisdictional amount, Plaintiffs seek to quiet title in themselves, which would extinguish the interest in the Property held by Nationstar. *See Exhibit A*, p. 8. The current balance due and owing on the note is in excess of \$156,000.00. Plaintiffs seek to restrain all parties with an interest in the Property from pursuing foreclosure rights to the Property. These amounts are in excess of the \$75,000 jurisdictional amount in controversy requirement for diversity jurisdiction.
- D. While Nationstar denies the allegations in Plaintiffs' Complaint, and denies any liability to Plaintiffs whatsoever, if those allegations are proven to be true, the amount in controversy greatly exceeds the sum or value of \$75,000.00, exclusive of interest, costs and attorneys fees.

8. A Notice of Filing Notice of Removal and a copy of this Notice of Removal to Federal Court have been filed with the Oakland County Circuit Court as required by 28 U.S.C. § 1446(d) and copies of the same have been served upon Plaintiffs' counsel as verified by the attached proof of service.

9. Based upon the foregoing, Nationstar is entitled to remove this action to this Court under 28 U.S.C. § 1441, *et seq.*

WHEREFORE, Nationstar respectfully requests that this Court take jurisdiction over this action and grant such other relief as the Court deems proper.

Respectfully submitted,

DYKEMA GOSSETT PLLC

By: /s/ Christyn M. Scott

Steven W. King (P56456)
Christyn M. Scott (P67485)
DYKEMA GOSSETT PLLC
Attorneys for Defendant
39577 Woodward Avenue
Suite 300
Bloomfield Hills, MI 48304
(248) 203-0746
Email: cscott@dykema.com

Dated: May 3, 2010

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2010, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the attorneys on that system, including the following:

None

I also certify under penalty of perjury that a copy of the foregoing and this *Proof of Service* were served on the other counsel of record at his or her address listed above via first class, U.S. Mail.

By: /s/ Christyn M. Scott

Christyn M. Scott (P67485)
DYKEMA GOSSETT PLLC
Attorneys for Defendant
39577 Woodward Avenue
Suite 300
Bloomfield Hills, MI 48304
(248) 203-0746
Email: cscott@dykema.com

Dated: May 3, 2010

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ID\CMB - 084912/0026

DYKEMA GOSSETT, A PROFESSIONAL LIMITED LIABILITY COMPANY, 39577 WOODWARD AVENUE, SUITE 300, BLOOMFIELD HILLS, MICHIGAN 48304

Exhibit A



CORPORATION SERVICE COMPANY

Notice of Service of Process

null / ALL
Transmittal Number: 7539076
Date Processed: 04/05/2010

Primary Contact: Niki Wenker
Nationstar Mortgage LLC
350 Highland Drive
Lewisville, TX 75067

Entity:	Nationstar Mortgage LLC Entity ID Number 2050233
Entity Served:	Nationstar Mortgage, LLC
Title of Action:	Ronald S. Freeman vs. Nationstar Mortgage, LLC
Document(s) Type:	Summons/Complaint
Nature of Action:	Property
Court:	Oakland County Circuit Court, Michigan
Case Number:	10-108892-CZ
Jurisdiction Served:	Michigan
Date Served on CSC:	04/05/2010
Answer or Appearance Due:	28 Days
Originally Served On:	CSC
How Served:	Certified Mail
Sender Information:	Patrick J. Politano 810-765-8804

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

Information Management, Inc.

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff

STATE OF MICHIGAN
JUDICIAL DISTRICT
6th JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS AND COMPLAINT

OAKLAND
COUNTY

10-108892-CZ



JUDGE EDWARD SOSNICK

FREEMAN, RONALD v. NATIONSTAR MO no.

Court address 1200 N. Telegraph Road, Pontiac, MI 48341

Plaintiff's name(s), address(es), and telephone no(s).

RONALD S. FREEMAN and SHAWN M.
FREEMAN, his wife
2440 Eastern Avenue
Rochester Hills, MI 48307

Defendant's name(s), address(es), and telephone no(s).

NATIONSTAR MORTGAGE, L.L.C.
601 Abbott Road
East Lansing, MI 48823

Plaintiff's attorney, bar no., address, and telephone no.

PAIRICK J. POLIANO (P-56163)
361 S. Water St., P.O. Box 117
Marine City, MI 48039-0117
(810) 765-8804**SUMMONS NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party or **take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued

MAR 26 2010

This summons expires

JUN 25 2010

Court clerk

RUTH JOHNSON

*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.***Family Division Cases**

- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
	PBD	

General Civil Cases

- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.

VENUE

Plaintiff(s) residence (include city, township, or village) Rochester Hills, MI	Defendant(s) residence (include city, township, or village) East Lansing, MI
Place where action arose or business conducted Oakland County, Michigan	

March 24, 2010

Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

MC 01 (3/08) **SUMMONS AND COMPLAINT** MCR 2.102(B)(11), MCR 2.104, MCR 2.105, MCR 2.107, MCR 2.113(C)(2)(a), (b), MCR 3.206(A)

DEFENDANT

PROOF OF SERVICE**SUMMONS AND COMPLAINT**

Case No. _____

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE☐ **OFFICER CERTIFICATE**

OR

☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

- ☐ I served personally a copy of the summons and complaint,
☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with

List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

- ☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____

Name (type or print) _____

Title _____

Subscribed and sworn to before me on: _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____
 Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with

Attachments _____

on _____

Day, date, time

on behalf of _____

Signature _____

RECEIVED FOR FILING
STATE OF MICHIGAN
OAKLAND COUNTY CLERK

IN THE 6th CIRCUIT COURT FOR THE COUNTY OF OAKLAND

2010 MAR 26 AM 10:48

RONALD S. FREEMAN and SHAWN M. FREEMAN, husband and wife,

Plaintiffs,

v.

Case No. 10-
Hon.

-CZ

NATIONSTAR MORTGAGE, L.L.C.,
a Michigan Limited Liability
Corporation,

Defendant.

PATRICK J. POLITANO (P-56163)
Attorney for Plaintiffs
361 S. Water St., P.O. Box 117
Marine City, MI 48039
810-765-8804

OAKLAND
COUNTY

10-108892-CZ

JUDGE EDWARD SOSNICK
FREEMAN, RONALD v. NATIONSTAR M

COMPLAINT

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in this complaint.

NOW COME Plaintiffs, RONALD S. FREEMAN and SHAWN M. FREEMAN, husband and wife, who states their Complaint for equitable relief against NATIONSTAR MORTGAGE, L.L.C., a foreign Limited Liability Corporation, as follows:

General Allegations

1. Plaintiffs are individuals residing at 2440 Eastern Avenue, Rochester Hills, MI 48307.
2. Plaintiffs are the owners of the aforementioned property which is allegedly encumbered by Defendant's alleged mortgage interest.
3. NATIONSTAR MORTGAGE, L.L.C. ("NATIONSTAR") is, upon information and belief, a foreign Limited Liability Corporation, and a registered address of 601 Abbott Road, East Lansing, Michigan

48823.

4. Plaintiffs seek equitable relief involving real property located in the City of Rochester Hills, Oakland County, Michigan and thus venue and jurisdiction are proper.

The Property and the Foreclosure Sale

5. Plaintiffs purchased real property ("Property") located at 2440 Eastern Avenue, Rochester Hills, Michigan in 2001 pursuant to financing provided by the defunct lender, Countrywide.

6. In 2006, through a defunct mortgage servicing company, Plaintiffs re-financed their Property through Flagstar Bank which allegedly provided funds pursuant to an alleged note.

7. At the time, an appraisal of Plaintiffs' Property was provided by and on behalf of Flagstar, listing the Property's value at an artificially higher rate.

8. Plaintiffs relief upon this appraisal which was provided by its lender as a means of negotiation for any documents they signed.

9. Beginning in 2009, Plaintiffs attempted to contact Flagstar on numerous occasions regarding a potential loan modification due to the artificial home valuation and the high interest rate.

10. In the Fall of 2009, Plaintiffs received notice that the alleged note and mortgage had been purchased by the current Defendant.

11. Plaintiffs then began a modification effort with Nationstar in an effort to save their home and pay a reasonable amount per month on the alleged note.

12. Nationstar induced Plaintiffs to enter into a forbearance agreement based on false promises to attempt a modification with Plaintiffs at a later date.

13. Plaintiffs efforts at modification have failed due to the lack of realistic proposals provided by Nationstar and Nationstar's failure to communicate in a timely manner with Plaintiffs.

Count I

Declaratory Judgment

14. Plaintiffs hereby incorporate by this reference their previous allegations as if fully set forth herein.

15. **NATIONSTAR** alleges it is the holder of a note secured by a mortgage on the Property

16. **NATIONSTAR** has not produced the said Mortgage Note.

17. Upon information and belief, **NATIONSTAR** does not possess the Mortgage Note.

18. Under Michigan Law, a party who is not the possessor of a mortgage note has no right to foreclose or expend any remedies that might may be contained in any alleged note.

19. As **NATIONSTAR** is not the possessor of the mortgage note, they have no right to allege any interest in the real property located at 2440 Eastern Avenue, Rochester Hills, MI.

20. Plaintiffs have been damaged or will be damaged by **NATIONSTAR** exercising rights that do not belong to it, as it does not possess the mortgage note on 2440 Eastern Avenue, Rochester Hills, MI.

WHEREFORE, Plaintiffs request this Honorable Court grant a Declaratory Judgment in Plaintiffs' favor and against Defendant and order:

- A. That Defendant **NATIONSTAR** is not possessor of a Mortgage Note on real property located at 2440 Eastern Avenue, Rochester Hills, MI;
- B. That as **NATIONSTAR** is not the holder of the Mortgage Note, it has no right to foreclose on the real property located at 2440 Eastern Avenue, Rochester Hills, MI;
- C. That any foreclosure sale or other remedies pursued on the property at 2440 Eastern Avenue, Rochester Hills, MI is invalid;
- D. Order further relief that may be required.

Count II

Fraud - Mortgage Note

21. Plaintiffs hereby incorporate by this reference their previous allegations as if fully set forth herein.

22. **NATIONSTAR** represented to Plaintiffs that it was the

holder of a Mortgage Note on the Property owned by Plaintiffs.

23. **NATIONSTAR** was in fact not the holder of the Mortgage Note and has not been in possession of the Mortgage Note.

24. **NATIONSTAR** knew or should have known that its representations that it was the holder of the Mortgage Note were false.

25. **NATIONSTAR** has made representations that negotiations should be entered into with it that the amount due and owing to it based on it being the holder of the mortgage note, which are false and which Nationstar knew were false.

26. **NATIONSTAR** induced Plaintiffs to enter into a forbearance agreement and to make payments based on its false assertions that it is the holder of a mortgage note secured by a mortgage on the Property.

27. **NATIONSTAR** intended that Plaintiffs' rely on its false representations.

28. Plaintiffs have relied on the assertions of **NATIONSTAR** in entering into a Forbearance Agreement and conducting further negotiations and making payments to **NATIONSTAR**.

29. **NATIONSTAR'S** false representations have damaged Plaintiffs in that Plaintiffs have paid funds and entered into an agreement based on false representations.

WHEREFORE, Plaintiffs pray this Honorable Court enter a Judgment in their favor and against Defendant, **NATIONSTAR**, and award Plaintiffs damages in an amount to be determined, and further award Plaintiffs equitable relief remedying the fraudulent actions of Defendant **NATIONSTAR**.

Count III

Quiet Title

30. Plaintiffs hereby incorporate by this reference their previous allegations as if fully set forth herein.

31. Plaintiffs own the Property located at 2440 Eastern Avenue, Rochester Hills, MI.

32. Plaintiffs' rights in the Property were infringed upon or encumbered by Defendant, **NATIONSTAR**.

33. The interests of **NATIONSTAR** in its recorded mortgage is slander on the title of Plaintiffs as **NATIONSTAR** is not the holder of the underlying mortgage note.

34. The slander of title committed by **NATIONSTAR** has damaged Plaintiffs by interfering with their quiet enjoyment of their Property.

WHEREFORE, Plaintiffs request this Honorable Court issue an Order with the following relief:

- A. Award Plaintiffs a Judgment ruling the interests of **NATIONSTAR** in the Property as invalid;
- B. Issue a deed quieting title and removing the interests of **NATIONSTAR** from the Property; and
- C. Any further relief this Court deems necessary.

Count IV

Fraud - Bad Faith Negotiation

35. Plaintiffs hereby incorporate by this reference their previous allegations as if fully set forth herein.

37. **NATIONSTAR** represented to Plaintiffs that by signing a forbearance agreement and by filing out a modification package it would negotiate in good faith a mortgage modification regarding the alleged note secured by a mortgage on the Property.

38. **NATIONSTAR** in fact had no intention of negotiating in good faith a modification of the alleged mortgage note herein referenced.

39. **NATIONSTAR** knew or should have known that its representations as to the facts alleged in this Count were false.

40. **NATIONSTAR** instead failed to respond to Plaintiffs in a timely manner and then proposed a modification that did not materially modify the alleged note and the responsibilities of Plaintiffs.

42. **NATIONSTAR** intended that Plaintiffs' rely on its false representations.

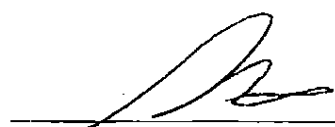
43. Plaintiffs have relied on the assertions of **NATIONSTAR** in entering into a Forbearance Agreement and conducting further negotiations and making payments to **NATIONSTAR**.

44. **NATIONSTAR'S** false representations have damaged Plaintiffs in that Plaintiffs have paid funds and entered into an agreement based on false representations.

WHEREFORE, Plaintiffs pray this Honorable Court enter a Judgment in their favor and against Defendant, **NATIONSTAR**, and award Plaintiffs damages in an amount to be determined, and further award Plaintiffs equitable relief remedying the fraudulent actions of Defendant **NATIONSTAR**.

Respectfully submitted,

Dated: March 22, 2010



Patrick J. Politano (P56163)
Attorney for Plaintiffs
361 S. Water St., P.O. Box 117
Marine City, MI 48039-0117
810-765-8804

CERTIFIED MAIL™

7003 3110 0002 5487 7642

UNITED STATES
POSTAL SERVICE

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48823

U.S. POSTAGE
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48039
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AMOUNT**\$5.71**

00023006-03

PATRICK J. POLITANO

ATTORNEY AT LAW

361 SOUTH WATER STREET

P.O. BOX 117

MARINE CITY, MICHIGAN 48039

Nationstar Mortgage, L.L.C.

601 Abbott Road

East Lansing, MI 48823

TO

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